

- (1) *providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or*
- (2) *selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:*
- (A) *do not occur on school property or at a school-related function;*
  - (B) *are entirely separate from any aspect of the employee's employment with the school district; and*
  - (C) *do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with the school district.*
- (c) *A person who violates this section commits an offense. An offense under this section is a Class C misdemeanor.*

(d) *In this section:*

- (1) *"Dietary supplement" has the meaning assigned by 21 U.S.C. Section 321 and its subsequent amendments.*
- (2) *"Performance enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that:*
- (A) *contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and*
  - (B) *is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.*

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 13, 1999, by a non-record vote; passed by the Senate on May 20, 1999, by a viva-voce vote.

Approved June 18, 1999.

Effective September 1, 1999.

## CHAPTER 1087

H.B. No. 3423

### AN ACT

relating to the emergency possession of and termination of the parent-child relationship of certain abandoned children.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 161.001, Family Code, is amended to read as follows:

Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD RELATIONSHIP. The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

- (1) that the parent has:
  - (A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

(C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

(E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;

(F) failed to support the child in accordance with the parent's ability during a period of one year ending within six months of the date of the filing of the petition;

(G) abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence;

(H) voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth;

(I) contumaciously refused to submit to a reasonable and lawful order of a court under Chapter 264;

(J) been the major cause of:

(i) the failure of the child to be enrolled in school as required by the Education Code; or

(ii) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

(K) executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by this chapter;

(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

(i) Section 19.02 (murder);

(ii) Section 19.03 (capital murder);

(iii) Section 21.11 (indecent with a child);

(iv) Section 22.01 (assault);

(v) Section 22.011 (sexual assault);

(vi) Section 22.02 (aggravated assault);

(vii) Section 22.021 (aggravated sexual assault);

(viii) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(ix) Section 22.041 (abandoning or endangering child);

(x) Section 25.02 (prohibited sexual conduct);

(xi) Section 43.25 (sexual performance by a child); and

(xii) Section 43.26 (possession or promotion of child pornography);

(M) had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state;

(N) constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services or an authorized agency for not less than six months, and:

- (i) the department or authorized agency has made reasonable efforts to return the child to the parent;
- (ii) the parent has not regularly visited or maintained significant contact with the child; and
- (iii) the parent has demonstrated an inability to provide the child with a safe environment;
- (O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;
- (P) used a controlled substance, as defined by Chapter 481, Health and Safety Code:
  - (i) in a manner that endangered the health or safety of the child, and failed to complete a court-ordered substance abuse treatment program; or
  - (ii) repeatedly, after completion of a court-ordered substance treatment program, in a manner that endangered the health or safety of the child;
- (Q) knowingly engaged in criminal conduct that results in the parent's imprisonment and inability to care for the child for not less than two years from the date of filing the petition; [or]
- (R) been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by Section 261.001; or
- (S) voluntarily delivered the child to an emergency medical services provider under Section 262.301 without expressing an intent to return for the child [261.001(7)]; and
- (2) that termination is in the best interest of the child.

SECTION 2. Chapter 262, Family Code, is amended by adding Subchapter D to read as follows:

**SUBCHAPTER D. EMERGENCY POSSESSION  
OF CERTAIN ABANDONED CHILDREN**

**Sec. 262.301. ACCEPTING POSSESSION OF CERTAIN ABANDONED CHILDREN.**

(a) *An emergency medical services provider licensed under Chapter 773, Health and Safety Code, shall, without a court order, take possession of a child who is 30 days old or younger if the child is voluntarily delivered to the provider by the child's parent and the parent did not express an intent to return for the child.*

(b) *An emergency medical services provider who takes possession of a child under this section shall perform any act necessary to protect the physical health or safety of the child.*

**Sec. 262.302. NOTIFICATION OF POSSESSION OF ABANDONED CHILD.** (a) *Not later than the close of the first business day after the date on which an emergency medical services provider takes possession of a child under Section 262.301, the provider shall notify the Department of Protective and Regulatory Services that the provider has taken possession of the child.*

(b) *The department shall assume the care, control, and custody of the child immediately on receipt of notice under Subsection (a).*

**Sec. 262.303. FILING PETITION AFTER ACCEPTING POSSESSION OF ABANDONED CHILD.** *A child for whom the Department of Protective and Regulatory Services assumes care, control, and custody under Section 262.302 shall be treated as a child taken into possession without a court order, and the department shall take action as required by Section 262.105 with regard to the child.*

SECTION 3. Section 22.041, Penal Code, is amended by adding Subsection (h) to read as follows:

*(h) It is an affirmative defense to prosecution under Subsection (b) that the actor voluntarily delivered the child to an emergency medical services provider under Section 262.301, Family Code.*

SECTION 4. (a) The change in law made by Section 161.001, Family Code, as amended by this Act, applies only to a suit for termination of the parent-child relationship filed on or after the effective date of this Act.

(b) A suit for termination of the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 5. (a) The change in law made by Section 22.041(h), Penal Code, as added by this Act, applies only to an offense that is committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 1999.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 29, 1999, by a non-record vote; passed by the Senate on May 20, 1999: Yeas 30, Nays 0.

Approved June 18, 1999.

Effective September 1, 1999.

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## CHAPTER 1088

### H.B. No. 3433

#### AN ACT

relating to dismissal of certain traffic offenses occurring in a construction or maintenance work zone.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 472.022, Transportation Code, is amended by adding Subsection (f) to read as follows:

*(f) Article 45.54, Code of Criminal Procedure, does not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.*

SECTION 2. Subchapter B, Chapter 543, Transportation Code, is amended by adding Section 543.117 to read as follows:

*Sec. 543.117. OFFENSE IN CONSTRUCTION OR MAINTENANCE WORK ZONE. A charge may not be dismissed under this subchapter for an offense to which Section 542.404 or 729.004 applies except upon motion of the attorney representing the state.*

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 1999.